

UNITED STATES FOREIGN INTELLIGENCE SURVEILLANCE COURT

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT
2013 NOV -5 PM 4:42

In re Motions for Declaratory
Judgment to Disclose Aggregate
Data Regarding FISA Orders
and Directives

)
)
)
)
)

Case Nos. Misc. 13-03, 13-04, 13-05, 13-06,
and 13-07

LEEANN FLYNN HALL
CLERK OF COURT

MOTION OF APPLE INC. FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Apple Inc. (“Apple”) moves for leave to file the accompanying *amicus curiae* brief in support of the motions for declaratory judgment filed in the above-captioned cases by Google Inc., Microsoft Corporation, Yahoo! Inc., Facebook, Inc., and LinkedIn Corporation (“the providers”). As set forth in greater detail in its filing, Apple submits this filing to describe the interest of Apple and its customers in the motions that have been filed and to provide additional analysis as to why the Government’s position both (i) lacks any statutory basis and (ii) violates the First Amendment right of Apple and others to provide the public and Apple’s customers with important information on an issue that has been the subject of intense political debate and public concern.

The providers consent to Apple’s filing. The Government consents to Apple’s filing on the condition that it have the opportunity to file a reply due on or before November 26, 2013, if it chooses to do so. Both the providers and Apple consent to this condition.

No party or counsel for a party participated in the drafting of this brief or made any monetary contributions to it. For these reasons, and those set out in the attached brief, Apple respectfully requests that the Court grant it leave to file its *amicus curiae* brief.

* * *

Pursuant to FISC Rule of Procedure 7(i), Apple states that none of its undersigned counsel holds security clearances. Pursuant to FISC Rule of Procedure 7(h)(1), Attorneys for *Amicus* Apple certify that the undersigned attorneys are members in good standing of the Bar of the District of Columbia.

Dated: November 5, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Isaacson', is written over a horizontal line.

William Isaacson, D.C. Bar No. 414788
Samuel C. Kaplan, D.C. Bar No. 463350
Michael J. Gottlieb, D.C. Bar No. 974960
BOIES, SCHILLER & FLEXNER, LLP
5301 Wisconsin Ave. NW
Washington, DC 20015
(t) (202) 237-2727
(f) (202) 237-6131
wisaacson@bsfllp.com

Attorneys for *Amicus Curiae* Apple, Inc.

UNITED STATES FOREIGN INTELLIGENCE SURVEILLANCE COURT

In re Motions for Declaratory)	
Judgment to Disclose Aggregate)	
Data Regarding FISA Orders)	Case Nos. Misc. 13-03, 13-04, 13-05, 13-06,
and Directives)	and 13-07

**[PROPOSED] ORDER GRANTING MOTION OF APPLE INC. FOR LEAVE TO FILE
AMICUS CURIAE BRIEF**

Now before the Court is the motion of Apple Inc. to file an *amicus curiae* brief in the above-captioned cases. Apple has an interest in these cases, and the parties have consented. If the Government chooses to file a response to Apple's filing, it shall do so on or before November 26, 2013. Accordingly, it is hereby ordered that Apple's motion for leave to file an *amicus curiae* brief is **GRANTED**.

SO ORDERED, this ____ day of _____, 2013.

United States Foreign Intelligence Surveillance Court
Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify this 5th day of November, 2013, that I caused the foregoing document to be served by hand delivery on the following:

Christine Gunning
Litigation Security Group
United States Department of Justice
2 Constitution Square
145 N St., NE, Suite 2W-115
Washington, DC 20530

In addition, I caused the foregoing document to be served by electronic mail on:

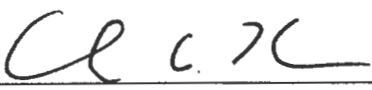
Albert Gidari
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
agidari@perkinscoie.com
Counsel for Google Inc.

James Garland
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
jgarland@cov.com
Counsel for Microsoft Corporation

Carl Nichols
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
Carl.nichols@wilmerhale.com
Counsel for Facebook, Inc.

Marc Zwillinger
ZwillGen PLLC
1705 N St. NW
Washington, DC 20036
marc@zwillgen.com
Counsel for Yahoo! Inc.

Jerome C. Roth
Munger, Tolles & Olson LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
Jermone.Roth@mto.com
Counsel for LinkedIn Corporation



Samuel C. Kaplan